

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF MISSISSIPPI
EASTERN DIVISION

ELLIOTT GUNTHARP, BY AND THROUGH HIS
BROTHER, KENT GUNTHARP
VS.
ITAWAMBA COUNTY SHERIFF'S DEPARTMENT
AND ITAWAMBA COUNTY, MISSISSIPPI
PLAINTIFF
NO. 1:05CV177-D-A
DEFENDANTS

DEPOSITION OF ELLIOTT GUNTHARP

TAKEN AT THE INSTANCE OF THE DEFENDANTS
IN THE LAW OFFICES OF WAIDE & ASSOCIATES
332 N. SPRING STREET, TUPELO, MISSISSIPPI
ON FEBRUARY 15, 2006, BEGINNING AT 9:10 A.M.

APPEARANCES NOTED HEREIN

Reported by: KATHRYN H. BOYER, CSR #1349

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EXHIBIT

"A"

1 A. Yes.

2 Q. Okay? Now -- and I want to backtrack just a little
3 bit.

4 A. Yes.

5 Q. Tell me about, as best you can recall, your service
6 in the Army. Where did you go and how long were you in the
7 Army and active?

8 A. I went in '79 and I went to basic training and
9 become a wire systems installer and operator and I was at
10 Fort Gordon, Georgia, for basic and AIT and then I went to
11 Shepherd Air Force Base for a stint at school and then I went
12 to Fort Seale, Oklahoma, for a while and then I went to Korea
13 and then back to Fort Gordon, Georgia.

14 Q. Okay. How long were you over in Korea?

15 A. One year and six months.

16 Q. And again, I'm basing some of this stuff off of
17 what I've seen in discovery that's been provided.

18 A. Yes.

19 Q. I know you're diagnosed presently with bipolar
20 disorder.

21 A. Yes.

22 Q. That may not be a technical term, but that's what I
23 know it as.

24 A. Yes.

25 Q. And you mentioned that you've taken your

1 medications today.

2 A. Yes.

3 Q. What do you take today?

4 A. I took Benztropine Mesylate, a blood pressure pill
5 and Zoloft, depression pill.

6 Q. So is that -- make sure I'm -- is that four
7 different medications?

8 A. Three.

9 Q. Three. Okay. As you've said earlier, you're able
10 to testify today.

11 A. Yes.

12 Q. Okay. Now, when were you first diagnosed with
13 bipolar disorder?

14 A. When I was in the service.

15 Q. Okay. Is that the reason you got out of the
16 service?

17 A. Yes.

18 Q. Okay. Now, I think I show what I see as 1985
19 roughly is when you were diagnosed. When you were diagnosed
20 with it, what did you do? I mean, did you go back home and
21 live with your mom or what was your reaction to being
22 diagnosed, I guess. Where did you go live, that kind of
23 thing?

24 A. I lived with my Korean wife.

25 Q. You lived with -- I can't -- tell me her name

1 A. Yes.

2 Q. Okay. Where were you living with Shin? Were you
3 in Fulton at that time?

4 A. With Shin?

5 Q. Uh-huh (indicating yes)

6 A. Augusta, Georgia.

7 Q. You were in Augusta. Okay. Was there anything
8 that caused you to need to move in with your parents?

9 A. Yes. I had a -- I had a bipolar episode.

10 Q. Okay. And was it a violent episode?

11 MR. WOODRUFF: Object to the form.

12 Q. (Mr. Huskison) Can you explain the episode.

13 A. Got moody and seeing things and scared.

14 Q. And, Elliott, is that consistent with the episodes
15 that you would have with this condition? That's the kind of
16 things, you're moody, being scared, that kind of thing when
17 you have episodes with your bipolar condition?

18 A. Yes.

19 Q. That'd be consistent with what would happen?

20 A. Yes.

21 Q. Okay. When you had the episode that -- when you
22 were living with Shin, were you still on your medications?

23 A. Yes.

24 Q. Okay. This was an episode that happened even
25 though you were on medications?

1 basing some of these questions off what we've received from
2 your attorney.

3 A. Yes.

4 Q. My understanding, in '91 your father, Travis, did
5 whatever was necessary to have you committed. Does that
6 trigger your memory at all?

7 A. Yes.

8 Q. All right. Can you tell me what you recall about
9 that.

10 A. I can't recall anything about that.

11 Q. Anything at all. But you do remember --

12 A. I remember being -- yeah. Right.

13 Q. I think that there was a second time where you
14 voluntarily committed yourself.

15 A. Right.

16 Q. Okay. Was that about in the same time frame as
17 best you can recall?

18 A. Close to it.

19 Q. Tell me about what you remember. What was
20 happening? What were you doing that was creating a problem?

21 A. I don't really know.

22 Q. Would it be some of these same things, moodiness;
23 would that be probably one of them?

24 A. Yes.

25 Q. Seeing things?

1 Q. Okay. Now -- and Jerry said, we can't do that
2 right now.

3 A. Yes.

4 Q. All right. What happened next?

5 A. They put me into the cell, in the second cell.

6 Q. Okay.

7 A. And the -- and while I was laying on the second
8 cell on the bottom, there was soiled sheets and blankets and
9 this black guy come up there and he said, what you doing in
10 my cell? And I was just laying there.

11 Q. Okay. Were you locked in there at the time?

12 A. Yes.

13 Q. Do you remember the black guy's name?

14 A. No.

15 Q. Okay. In the cell you were in -- I think you said
16 you were in the second cell and I've been there and I haven't
17 seen all the pictures that were taken during the
18 surveillance, but I know generally where you're talking
19 about.

20 A. Yes.

21 Q. You open the door and you were in that second cell
22 walking back through.

23 A. Right.

24 Q. Were there two beds in there?

25 A. Yes.

1 Q. Okay. Did the black man ever come back into that
2 cell with you?

3 A. No.

4 Q. Okay. Did you have that cell to yourself the rest
5 of the time you were there?

6 A. Yes.

7 Q. Okay. You got one cell on one side, which I'll
8 call that cell one.

9 A. Yes.

10 Q. Was there anybody in that cell?

11 A. Yes.

12 Q. Do you remember his name?

13 A. No.

14 Q. Okay. But somebody was in that cell.

15 A. Yes.

16 Q. All right. What about cell three?

17 A. Yes.

18 Q. Somebody was in cell three as well?

19 A. Yes, sir.

20 Q. Do you remember the name of that person?

21 A. No.

22 Q. Do you remember somebody that was nicknamed
23 Waterdog?

24 A. Yes.

25 Q. Was he in one of those cells?

1 A. And was going to cuff me and put some footcuffs on
2 me, but I wouldn't do it and I started kicking at the cell.
3 He started cussing at me and then he got a shock baton and
4 was sticking it in and out of between the bars at me.

5 Q. Okay.

6 A. And he hit my wrist and Waterdog said that he'd
7 cuff me and I let Waterdog cuff me and that.

8 Q. Okay.

9 A. Then we went to Region III and then at Region III,
10 the doctors and stuff, I told them I wouldn't talk to them
11 unless I seen my pastor.

12 Q. Okay. You asked to see your pastor again --

13 A. Yes.

14 Q. -- at Region III?

15 A. Yes. Right.

16 Q. Did they let you see your pastor there?

17 A. No.

18 Q. You mentioned Waterdog back when Kenneth Knight was
19 trying to get you to go to Region III. Was Waterdog there?

20 A. Yes.

21 Q. Okay.

22 A. And Patrick Graham.

23 Q. And Patrick Graham.

24 A. Yes.

25 Q. Both of those two were there with Kenneth.

1 recall them coming in to take you to Region III?

2 A. No.

3 Q. Don't recall.

4 A. I was so disorientated, you know, I couldn't tell
5 the days.

6 Q. Okay. At that time, Elliott, had you had your
7 medications?

8 A. No.

9 Q. Had you had any of your medications?

10 A. No.

11 Q. I know you took several. You hadn't been given
12 any?

13 A. I only had medication twice.

14 Q. Okay.

15 A. And that was before I went to court.

16 Q. Okay. That would have been three or four days
17 later.

18 A. Right.

19 Q. But on the night that you checked in and in the
20 morning before you went to Region III, your testimony is you
21 didn't take any medications.

22 A. Right.

23 Q. Okay. Now, you went to Region III. Do you
24 remember the doctor that evaluated you there?

25 A. Dr. Massur and Dr. Goff.

1 like that at him?

2 A. I kicked the bars. When he had the shock baton
3 going like that (indicating), I kicked the bars at him.

4 Q. Okay.

5 A. And then when I got hit with it, I veered off to
6 end of the cell.

7 Q. Okay. He -- where did he hit you on your hand?

8 A. On the wrist right here (indicating).

9 Q. On the wrist and he's pointing right at his --
10 looks like your right wrist.

11 A. Right.

12 Q. Okay. Show you something. And, Elliott, I'm not
13 sure when these things were taken.

14 A. Yes.

15 Q. Do you remember when these pictures were taken?

16 A. No.

17 Q. You don't. All right. And is that your hand? I
18 believe it is. What I think this is showing, Elliott, is
19 your hand and where you've got marks on your hand.

20 A. Yes.

21 Q. All right. Can you show -- we'll mark this as
22 Exhibit A. Where on this -- this is your right hand. Where
23 did you get hit with the baton?

24 A. Right there (indicating).

25 MR. WOODRUFF: Circle it or anything?

1 Q. Was Waterdog there at that time as well?

2 A. Yes.

3 Q. Okay. Now -- all right. I think you said,
4 Elliott, it knocked you back when he hit you with it.

5 A. (Witness nods head up and down)

6 Q. Were you still conscious after he hit you?

7 A. Yes.

8 Q. Okay. And as you said, you pointed where he -- you
9 think he hit you on your hand.

10 A. Yes.

11 Q. Okay. Now, how long after that before Waterdog was
12 able to get you cuffed and ready to go?

13 A. Not very long.

14 Q. Soon after that?

15 A. Right after he shocked me with the shock baton.

16 Q. Okay.

17 A. Right after that.

18 Q. Okay. Now, we've talked about your visit and your
19 evaluation at Region III.

20 A. Uh-huh (indicating yes).

21 Q. And you got back to the jail that night. Had you
22 had any medications at that point?

23 A. The only time I had medications was twice before I
24 went to court.

25 Q. Okay. That day before you went to court or the --

1 A. Yes.

2 Q. The day of or the day before; do you remember?

3 A. No.

4 Q. Okay.

5 A. But two days -- two days before I went to court.

6 Q. Okay.

7 A. In the evening time.

8 Q. And who administered or who gave you the
9 medication?

10 A. Patrick Graham.

11 Q. Patrick did. Now, you mentioned requesting to see
12 your pastor that first day. Did you ever request to see
13 Pastor Bain anymore after you were there?

14 A. Yes. I was hollering to the other people that I
15 wanted to see my preacher and Brother Bain.

16 Q. You wanted to see your preacher and Brother Bain.
17 Is that two separate people?

18 A. No, just Brother Bain.

19 Q. Just Brother Bain.

20 A. Right.

21 Q. When you said you were hollering it to the other
22 people in the jail --

23 A. Right.

24 Q. Okay. Now, were you familiar -- what was the
25 response? I mean, for example, Kenneth Knight, did he ever

1 Q. How many medications were you taking when you got
2 back to the house? Do you remember? I know it's hard to
3 remember. We can check records.

4 A. Yeah. Just check the records.

5 Q. Okay. But you were taking stuff for your bipolar?

6 A. Yes.

7 Q. Would that include depression medicine?

8 A. No. He just put me on the depression medicine now
9 about six -- about a couple of months ago or so, I believe.
10 I can't remember.

11 Q. And, Elliott, when you were -- after you left the
12 Itawamba County Jail and went to the VA hospital, did you
13 have discussions with your doctor about things that were
14 bothering you?

15 A. No.

16 MR. WOODRUFF: Are you talking about the VA
17 hospital or after he got back to --

18 Q. (Mr. Huskison) When you were at the VA hospital.
19 Right after you left the Itawamba County Jail, did you have
20 any discussions with your doctor about things that were
21 bothering you?

22 A. About what happened to me?

23 Q. Uh-huh (indicating yes).

24 A. No.

25 Q. Okay. Okay. Did you talk with your doctor about

1 your divorce and what stress that was causing you?

2 A. Yes.

3 Q. Okay. But you didn't mention anything about the
4 jail.

5 A. I could have, but I can't remember.

6 Q. Okay. You just don't remember whether you
7 mentioned that.

8 A. Right.

9 Q. Just have to look at his notes and see what he
10 says?

11 A. Yes, sir.

12 Q. Okay. Now, during that time frame, you were going
13 through a difficult divorce.

14 A. Yes.

15 Q. And that was with Jan?

16 A. Yes.

17 Q. All right. And are you divorced now?

18 A. No.

19 Q. Okay. The process is still ongoing?

20 A. Yes.

21 Q. Are you still trying to get a divorce?

22 A. Yes.

23 Q. Okay. Is that what you want?

24 A. Yes.

25 Q. Okay. And Jan does not want that or --

1 A. No.

2 Q. But you heard people saying that.

3 A. Yes.

4 MR. WOODRUFF: I don't have anything else.

5 MR. HUSKISON: Just a couple of follow-ups to
6 what he asked and it will be short, Elliott.

7 MR. GUNTHARP: Okay.

8

9 EXAMINATION

10 BY MR. HUSKISON:

11 Q. When you -- and, again, I don't want to beat this
12 in the ground, but as you know, Kenneth denies hitting you
13 with the gun.

14 A. (Witness nods head up and down)

15 Q. During that time frame when you say this happened,
16 you were refusing to allow him to cuff you, were you not?

17 A. Yes.

18 Q. You were yelling and cussing.

19 A. Yes.

20 Q. You were flailing around in your cell.

21 A. Yes.

22 Q. Did you get up in a karate stance toward him?

23 A. Yes.

24 Q. Okay. And this is when you were behind the bars.

25 A. Yes.

EXHIBIT

Elliott
Guthra
7-15-06

